

**MINUTES OF THE
LAKE COUNTY PLANNING COMMISSION
October 28, 2008**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chairman Siegel called the meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Messrs. Adams, Morse, Schaedlich, Siegel, Smith (alt. for R. Sines), Zondag, and Mmes. Hausch and Pesec. Staff present: Messrs. Webster, Radachy, and Ms. Myers.

MINUTES

Ms. Hausch said there was an extra "to" on page five, first paragraph, to delete. Ms. Pesec asked to have the terminology in the first paragraph "disabled" to read "people with disabilities" on page three.

Mr. Adams moved and Mr. Morse seconded the motion to approve the September 30, 2008 minutes as corrected above.

Seven voted "Aye".

FINANCIAL REPORT

Mr. Zondag moved and Mr. Morse seconded the motion to approve the September, 2008 Financial Report as submitted.

Seven voted "Aye".

PUBLIC COMMENT

There was no comment from the public.

LEGAL REPORT

Mr. Benjamin Neylon, Asst. Prosecutor, said there was nothing to report and that he would have a comment to make later in the Land Use and Zoning portion of the meeting.

DIRECTOR'S REPORT

Mr. Webster reported that he had sent copies of the three Madison comprehensive plans to Ms. Pesec for review at her request. The staff is waiting for information from the Trustees and the Zoning Commission for final details.

ANNOUNCEMENTS

There were no announcements.

SUBDIVISION REVIEW

Concord Township – Mountainside Farms, Phase IV, Resubmission of Final Plat and Improvement Plans, 2 Blocks

Mr. Radachy stated the Mountainside Farms subdivision was approved in October, 2001. The developer is Properties Development and Mountainside Farms LLC. The final plat was approved in August of 2005 with 11 sublots. It is now being resubmitted as a two-block subdivision because they want to get the road connected. There are 16 stipulations and 13 comments on the Preliminary Improvement Plans and seven stipulations and two comments on the Final Plat. The lake is to be reduced in size and is currently going through the process through Ohio Department of Natural Resources (ODNR) to have the dam declassified and eliminated.

The Mountainside Farms, Phase IV subdivision is located with Morley Road to the west, Pinecrest Road to the south, Viewmont Road to the west, and Page Drive and I-90 to the north.

The following proposed Improvement Plan and Final Plat stipulations and comments were submitted:

Proposed Improvement Plans Stipulations:

1. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. Art. IV, Sec. 3, E - Art. IV, Sec. 3, F - Art. V, Sec. 4, A - Art. V, Sec. 4, B - Art V, Sec. 4, C
2. Until plats and plans for the subdivision are approved, properly endorsed and recorded, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*
3. A fire hydrant shall be installed at the beginning of the block, near the intersection of Morley Road and Karaboo Trail. *Article IV Section 11*
 - a. Streets longer than 800 feet shall have a fire hydrant at the beginning of the street, midpoint of the street and at the end of the street. Fire hydrants may be spaced no further than 500 feet apart. *Concord Twp Fire Dept.*
4. The improvement plans shall conform to the final plat. *Article III Section 4(A)*

- a. Plat easement locations do not appear to match with improvement drawings. *County Engineer*
5. Revisions to ESC Plan shall be incorporated into the Final Improvement Plans. *LCSWCD*
6. Proper application and review & inspection fee shall be provided to the District. *LCSWCD*
7. Ohio EPA General Construction Storm Water NPDES permit shall be copied to the District prior to the start of construction. *LCSWCD*
8. Fire flows must meet the ISO minimum requirements for size, type and spacing for structures built. *Concord Twp. Fire Dept.*
9. Hydrant steamer outlet shall be 5” Stortz fitting on all hydrant installations, and future installations. *Concord Twp. Fire Dept.*
10. Hydrant flows must be 750 gallons per minute minimum. *Concord Twp. Fire Dept.*
11. Stormwater Management plan shall conform to LC Standards and Stormwater Management Program. *LC Engineer*
12. Dam declassification must be approved by ODNR. *Stormwater Mgmt. Dept.*
13. Maintenance Plan/Agreement must be prepared for the retention pond. *Stormwater Mgmt. Dept.*
14. Submit all necessary permits for dam declassification. *County Engineer*
15. Submit drainage calculations for development detention/retention requirements. *County Engineer*
16. Pavement design shall be based on ODOT’s design standards. *County Engineer*

Proposed Improvement Plans Comments

1. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)* The preliminary plan was approved in October of 2001.
2. Potable water to be supplied by Aqua Ohio. *L.C. Utilities*
3. All signage must comply with the Ohio Manual of Uniform Traffic Control Devices. *Concord Twp. Service Dept.*
4. Streets and fire hydrants must be installed and operational prior to start of construction of

- any structures. *Concord Twp. Fire Dept.*
5. Building numbers must be provided and installed prior to occupancy of any structure. *Concord Twp. Fire Dept.*
 6. Street name signs and “No Parking on Hydrant Side of Street” signs shall be provided and installed prior to the start of construction of any structure. Street signs shall be in accordance with the Ohio Fire Code 505.2 and be double sided. Building numbers or identification must be provided during all phases of construction of a structure. *Concord Twp Fire Dept.*
 7. All structures shall have approved address numbers, building numbers or building identification in accordance with the Ohio Fire Code 505.2 after completion of construction and prior to occupancy. Mailbox house numbers must be doubled sided. *Concord Twp Fire Dept.*
 8. All contractors are to be instructed NOT to park on the hydrant side of the street during any construction. *Concord Twp. Fire Dept.*
 9. All cul-de-sacs must be provided with a minimum diameter of 120 feet. Concord Township Fire Department will NOT APPROVE “Stub Streets” of any length. *Concord Twp Fire Dept.*
 10. No objections as long as sanitary sewer and waterline are located in public right-of-way. *Utilities Dept.*
 11. The maintenance responsibility for earthen dams is a sensitive issue in Concord Township. Unsuspecting homeowners and the tax payers of the community should not be required to take on the cost of maintenance of a poorly constructed privately owned dam. It is not clear who will ultimately become responsible for the continued maintenance of this dam. The Township Service Department certainly does not want this responsibility. Although my comments about the dam are made in the interest of public safety, it should be clear that my comments should not be construed as an acceptance of the maintenance responsibility of this dam. *Concord Twp. Service Dept.*
 12. It is not clear how the area around the existing dam outlet structure will be regarded to allow water to exit the pond at an elevation of 918.50 without cutting into the upstream face of the existing dam. Cutting into the dam at its center will likely weaken the strength of a dam that is already questionable. *Concord Twp. Service Dept.*
 13. If the top of the dam is graded to 924.00 there will only be a few inches of freeboard from the invert of the proposed emergency overflow spillway. Ideally, the emergency spillway should not be directly over the top of the earthen dam, but rather around the dam in an area of undisturbed natural ground. If the outlet at 918.50 becomes clogged with debris,

emergency flows will be directed over the top of a questionable earthen dam. There also should be at least 2 feet of freeboard to prevent uncontrolled overtopping of the dam.
Concord Twp. Service Dept.

Proposed Final Plat Stipulations:

1. This plat meets the definition of subdivision as per ORC 711.001 B (2), therefore this is not a dedication plat but a subdivision plat. It shall be listed as such. *LCPC*
2. Sanitary Sewer Easement that was recorded as part of Mountainside Farms Phase 1 must be vacated by the Board of Lake County Commissioners. *LCPC*
3. Landscape Easement shown on the plat is on land owned by Lake Erie College. Lake Erie College will be required to sign the plat if the developer wishes to dedicate this landscape easement by the plat. *Article III Section 6(D)(1)(c)*
4. Lake Erie College will have to sign the plat to vacate the pump house easement. Language vacating the easement will be required to be on the cover sheet. *Article III Section 6(D)(1)(c)*
5. Retention Easement shall be a local service drainage easement with the proper language on the cover sheet. *Article III Section 6(D)(1)(h) and Article III Section 6(D)(2)(k)*
 - a. All easements in block “A” must be assigned to an entity. *Stormwater Mgmt. Dept.*
 - b. Identify the responsible parties for all proposed easements. *County Engineer*
6. A vicinity map shall be included with the plat. *Article III Section 6(D)(1)(j)*
7. Monuments to be set within the Subdivision need to be tied into State Plane Coordinate System. *County Engineer*

Proposed Final Plat Comments:

1. Identify ‘block’ ownerships. *County Engineer*
2. Concord Township Trustees recommend approval. *Concord Twp. Trustees*

Mr. Radachy continued stating there was one issue regarding an existing waterline with two fire hydrants and a third fire hydrant in Phase I. According to our Regulations, fire hydrants should be placed at the beginning, middle and end of Phase IV. They need one more fire hydrant.

Mr. Schaedlich joined the meeting at this time.

Staff recommended approval of the Preliminary Improvement Plans with 16 stipulations and 13 comments and the Final Plat with seven stipulations and two comments.

The lake will be reduced in size and the dam is to be reclassified and eliminated, along with its maintenance, if approved by ODNR. It will still hold some water and the emergency overflow system will be upgraded.

Mr. Joseph Gutoskey of Gutoskey & Associates stated that they actually had an approval from ODNR to do this work. They wanted to make sure that, if they did do what was proposed, ODNR would declassify the dam. They had to make sure there was less than 15 acres of water at the highest point and they accomplished this by filling in the eastern end of the lake and creating a stream to pick up the culverts in the east. They are also lowering the berm of the dam so it cannot hold over 15 acres of water. Once the improvements are done, they will submit a request to ODNR to redo the construction and have the dam declassified. They are also putting in an emergency overflow system.

Mr. Schaedlich moved to approve the Mountainside Farms, Phase 4 subdivision with 16 improvement plan stipulations and 13 comments and the final plat with seven stipulations and two comments. Ms. Hausch seconded the motion.

All voted "Aye".

Concord Township – Summerwood, Phase 1, Maintenance Bond

Mr. Radachy stated that this issue had been addressed for the past four months and is currently tabled. The Chair stated it should be left on the table because no one was present to discuss it. Mr. Radachy explained that the hold on the bond was because catch basins were out of the ground. After speaking to Mr. Gerson of the Concord Township Service Department today, he was told the excavator had started the repairs and should be finished by Friday. If the Planning Commission acted today, they could approve a one-year maintenance period instead of a month from now. Then, the County Engineer could recommend on it and submit it to the County Commissioners, who could act on it at any time.

Mr. Morse moved to take the Summerwood, Phase 1, maintenance bond off the table and Mr. Schaedlich seconded the motion.

All voted "Aye".

Mr. Radachy gave the history on the progression of this subdivision and bond issue. Summerwood, Phase 1 has 68 sublots on 125 acres. Originally there were 125 sublots on 76 acres. It was rezoned to R2 in March of 2003. The developer was Tom Reibe and the engineer was CT Consultants at the time. The final plat was approved in August of 2004. The construction surety was filed January 27, 2005 and the plat was recorded in February. It was recommended to accept the maintenance bond in 2006. The County Engineer recommended the acceptance of the maintenance bond again in 2007. This issue was tabled in July of 2008 when it was discovered that the sanitary sewer bond had never been filed. The Sanitary Engineer said the maintenance period was completed in August of 2008 and then it was tabled again because of the issue with Concord Township and the catch basins rising. In September 2008, the excavating people came in to discuss the issue. There is a letter dated October 24, 2008 sent by certified

mail today stating they were almost finished with the basins. Mr. Radachy had spoken to Mr. Gerson of the Concord Township Service Department this afternoon and he was satisfied with the work the excavating people were doing.

The staff recommended setting a one-year maintenance bond period for the subdivision pending the approval of the County Engineer and Concord Township. This will be forwarded to County Commissioners by the County Engineer. Concord Township will receive a seven-day notification prior to the County Commissioners' meeting.

Mr. Morse moved to approve the Summerwood, Phase 1 maintenance bond with staff's recommendations. Mr. Smith seconded the motion.

Seven voted "Aye".
One voted "Nay".

LAND USE AND ZONING REVIEW

Leroy Township – Proposed Text Amendment – Section 2, Definitions

Mr. Radachy introduced the proposed text amendment submitted by Leroy Township for Section 2, Definitions. Proposed definitions were being added concerning riparian setbacks. In addition, the Land Use and Zoning Committee recommended a couple more definitions to be included as follows:

- Stream Crossing: A stabilized area or structure constructed across a stream to provide a travel way for people, livestock, equipment, or vehicles or place for utilities to cross the stream.
- Stream Bank Stabilization: Any constructed facility, structure or device that protects the stream bank from the erosive forces of moving water.
- Water Treatment Plant: Facility that uses physical and chemical processes for making water suitable for human consumption and other purposes.
- Structural Storm Water Management Practice: Any constructed facility, structure or device that provides storage, conveyance and/or treatment of stormwater runoff.
- Stream Bed: The channel through which a natural stream of water runs or used to run.
- Stream Bank: The sides of a channel that hold or carry water.

Staff also stated that Leroy Township should consider changing the name of "Sewer, on site" to "On Site Sewage Systems". On Site Sewage Systems is the term used in Chapter 31. They should also make a reference the Ohio EPA, a.k.a. OEPA.

Mr. Zondag asked to recommend changing the definition of "damaged or diseased trees" to include man-made/construction damage to trees.

Ms. Pesec moved to recommend approval of the Leroy Township text amendments in Section 2, Definitions, along with the staff's and Mr. Zondag's recommendations.

All voted "Aye".

Leroy Township – Proposed Text Amendment – Section 9.1.12, Prohibited Uses, Junk Motor Vehicles

Mr. Radachy introduced this text amendment as being submitted by Leroy Township for changes to Section 9.1.12, Prohibited Uses, Junk Motor Vehicles with language their Prosecutor suggested enabling the Township to tow junk motor vehicles. State law 505.871 gives the ability to the Township to remove junk motor vehicles from public property and recoup some of the costs.

The Land Use and Zoning Committee recommended denying this change. They agreed to the concept, but did not believe it belonged in the zoning code. They suggested it might be better to take it out of the zoning code and do a stand alone resolution with the Trustees and to enforce it with the property maintenance resolution.

Mr. Adams was concerned about the language in 9.1.12, Junk Motor Vehicles "prohibited use".

Mr. Neylon stated the revised code 505.173 allowed townships to not store motor vehicles on private and public property. It was passed and put into effect sometime in 2006 and this change was made in the zoning code to reflect that. In 2008, the State passed revised code 505.871 that not only regulated junk vehicles on the property, but removed them as well. The legal counsel was only asked if this could be put into the zoning, which it can. Whether it should be put into the zoning code is another question. A stand alone resolution could be done, which has some advantages. One is, if it is put into the zoning code, it would be subject to the zoning rules. There are some prior non-conforming uses that would not be covered. Appeals entitlement is a question. There may be drawbacks to doing a stand alone resolution. It may need to be done a little more often. He suggested recommending that the general idea was approved, but to send it back to counsel for further review on alternative methods.

Mr. Adams moved to recommend the Land Use and Zoning recommendations and to suggest returning the proposed amendment to the prosecutor for further review of alternative methods. Ms. Hausch seconded the motion.

All voted "Aye".

REPORTS OF SPECIAL COMMITTEE

There were no reports.

CORRESPONDENCE

There was no correspondence.

OLD BUSINESS

Lake County Subdivision Regulations Amendments of Articles III, IV, and V

The Lake County Subdivision Regulation changes were submitted for final review. Mr. Brotzman brought a major error to the staff's attention this evening. The change was distributed to the members and staff was instructed to have the change reviewed by the County Prosecutor before any action was taken. After this review, the amendments will be brought back to the Commission for consideration.

NEW BUSINESS

Personnel Policies

Mr. Webster stated there were three personnel policy items to be considered for adoption:

1. Probationary period for a new hire - 120 days for a full-time employee with a proportionate number of days for a part-time employee.
2. Personal days - Increase from three to five days a year to be taken in four hour increments with authorization.
3. Family/medical leave – Up to twelve weeks during a 12-month period in accordance with the Medical Leave Act using accrued paid vacation, compensatory or sick leave time first. In addition to and after taking the family/medical leave, a leave of absence without pay may be granted if needed.

Mr. Zondag suggested including an extended probationary time.

Mr. Neylon questioned if the staff was classified or unclassified and was told by Mr. Webster the staff was unclassified and there were no bargaining unit staff members. He suggested approving it as it is. Extended probationary time, which could be up to 180 days, may be added at a later date, but he did not really think it would be necessary because of the circumstances of this staff's makeup per the afore-mentioned questions.

Mr. Schaedlich moved to approve the changes as submitted to the Planning Commission personnel policies and Ms. Hausch seconded the motion.

All voted "Aye".

PUBLIC COMMENT

There was no public comment.

EXECUTIVE SESSION

Mr. Smith moved to convene an Executive Session to discuss personnel issues and Mr. Adams seconded the motion.

A roll call vote was taken by the Secretary as follows:

Mr. Adams – Yes
Ms. Hausch – Yes
Mr. Morse – Yes
Ms. Pesec – Yes

Mr. Smith - Yes
Mr. Schaedlich - Yes
Mr. Zondag - Yes
Mr. Siegel – Yes

Motion to convene an Executive Session passed. Staff was dismissed at 7:45 p.m.

Mr. Schaedlich moved and Mr. Adams seconded the motion to end Executive Session and reconvene the regular meeting at 7:55 p.m.

All voted "Aye".

Ms. Hausch moved to accept Mr. Webster's resignation to be effective January 30, 2009 and Mr. Adams seconded the motion.

All voted "Aye".

Mr. Morse moved and Mr. Schaedlich seconded the motion to appoint Mr. Jason Boyd as Deputy Director with a base salary of \$50,000.00 effective November 1, 2008.

All voted "Aye".

ADJOURNMENT

Mr. Smith moved and Mr. Adams seconded the motion to adjourn the meeting at 7:56 p.m.

All voted "Aye".